

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LOUIS JAMES THIBODEAUX,

Plaintiff,

v.

DANIEL WHITE, et al.,

Defendants.

CASE NO. C20-5110 BHS-JRC

ORDER ADOPTING REPORT
AND RECOMMENDATION IN
PART AND GRANTING
PLAINTIFF LEAVE TO AMEND

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 40, and Plaintiff Louis James Thibodeaux’s (“Plaintiff”) objections to the R&R, Dkt. 41.

On July 31, 2020, Judge Creatura issued the R&R recommending that the Court grant Defendants Daniel White (“White”) and Junny Shon’s (“Shon”) motion to dismiss, grant Plaintiff leave to amend his claims against Shon, and dismiss Plaintiff’s claim against White with prejudice and without leave to amend. Dkt. 40. On August 7, 2020, Plaintiff filed objections. Dkt. 41.

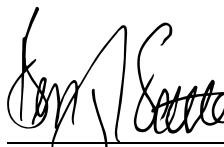
The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Plaintiff has established that leave to amend his claims against White
4 and Shon is warranted. Regarding White, Judge Creatura concluded that Plaintiff's claim
5 against White was based on White's role as a supervisor and that White should have
6 known about the alleged harm to Plaintiff and acted to prevent such harm. Dkt. 40 at 10.
7 In his objections, Plaintiff states for the first time that he intends to hold White
8 accountable for failure to train Shon, which is a plausible theory for § 1983 liability. In
9 light of these allegations, which were not before Judge Creatura, the Court concludes that
10 Plaintiff shall be allowed leave to amend his claims against White to provide factual
11 allegations sufficient to state a claim for failure to train. Therefore, the Court, having
12 considered the R&R, Plaintiff's objections, and the remaining record, does hereby find
13 and order as follows:

- 14 (1) The R&R is **ADOPTED in part**;
- 15 (2) Defendants' motion to dismiss is **GRANTED**;
- 16 (3) Plaintiff is granted leave to amend his complaint against White and Shon;
- 17 and
- 18 (4) Judge Creatura shall set a deadline for any amended complaint.

19 Dated this 29th day of September, 2020.

20 

21 BENJAMIN H. SETTLE
22 United States District Judge